



The following constitutes the order of the Court.
Signed: March 27, 2020

Stephen L. Johnson

Stephen L. Johnson
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re)	Case No.: 19-51759 SLJ
)	
)	Chapter 13
)	
JASON MATTHEW CLAUSING,)	
)	Date: March 26, 2020
Debtor.)	Time: 10:00 a.m.
)	Ctrm: 9

**ORDER IMPOSING SANCTIONS AGAINST ROBERT McCracken
FOR VIOLATION OF THE AUTOMATIC STAY**

Debtor's Motion for Sanctions for Violation of the Automatic Stay and Demand for Turnover of Property ("Motion") came on for hearing at the above-referenced date and time. Aaron Lipton, Esq. appeared for Debtor. James McLeod, Esq. appeared for John Deere Construction & Forestry Company. Devin Pace, Esq. appeared for the chapter 13 trustee. For reasons stated on the record,

IT IS HEREBY ORDERED as follows:

1. The Motion is GRANTED in part and DENIED part.

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2. The court determines that **Robert McCracken violated the automatic stay arising under 11 U.S.C. § 362(a)** by continuing to possess property of the estate, namely certain equipment that was financed by John Deere Construction & Forestry Company. That property is identified in the Motion.

3. Mr. McCracken is directed to return all property specified in the Motion to Debtor within 14 calendar days of service of the entry of this order. This shall be accomplished at Mr. McCracken's sole expense and any liability arising from that transfer shall be imposed on him.

4. Debtor's counsel must promptly serve this order on Mr. McCracken by first class mail, e-mail (if available), and personally. Debtor's counsel must file a proof of service. If Debtor's counsel is not able to serve Mr. McCracken by e-mail or personally, he should file a declaration stating the circumstances of the attempt to serve him.

5. If Mr. McCracken fails to comply with this order in any respect, Debtor's counsel may file a motion to hold Mr. McCracken in contempt under Bankruptcy Rule 9020 and may request monetary or other sanctions for that failure. Service of such a motion shall be made on shortened time given the circumstances and Mr. McCracken's prior failure to comply. Debtor's counsel may set the hearing on such a motion on 14 days' notice to Mr. McCracken. Service of any such motion must be by first class mail. Debtor's counsel should call the courtroom deputy to obtain a hearing date.

6. Debtor is awarded attorney's fees and costs in the amount of \$848.42. Mr. McCracken shall pay these fees directly to Debtor's counsel within 14 days' of the entry of this order. Debtor's counsel should file a declaration of that payment when it is complete.

7. The request for contempt for violation of 11 U.S.C. § 542 is DENIED.

8. The requests for damages in the amount of \$137,580.16 and punitive damages in the amount of \$10,000 are DENIED.

*** END OF ORDER***

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COURT SERVICE LIST

ECF Notifications

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